



## OFFICE OF THE MAYOR Mary Casillas Salas

September 19, 2018

### VIA ELECTRONIC FILING

Ms. Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 12th Street, SW  
Washington, District of Columbia 20554

*RE: Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment, WC Docket No. 17-84; Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment, WT Docket No. 17-79*

Dear Ms. Dortch,

The City of Chula Vista writes to express its concerns about the Federal Communications Commission's (FCC) proposed Declaratory Ruling and Third Report and Order regarding state and local governance of small cell wireless infrastructure deployment. As the second largest city in San Diego County, Chula Vista is committed to improving wireless communication services in our communities through working with all stakeholders including wireless companies, our communities and residents. We strongly believe that it is possible to accomplish the goals of the FCC proposal without removing the authority of the City to make informed and common sense decisions to protect our communities.

While we appreciate the Commission's efforts to engage with local governments on this issue and share the Commission's goal of ensuring the growth of cutting-edge broadband services for all Americans, we remain deeply concerned about several provisions of this proposal. Local governments have an important responsibility to protect the health, safety and welfare of residents, and we are concerned that these preemption measures compromise that traditional authority and expose wireless infrastructure providers to unnecessary liability.

- **The FCC's proposed new collocation shot clock category is too extreme.** The proposal designates any preexisting structure, regardless of its design or suitability for attaching wireless equipment, as eligible for this new expedited 60 day shot clock. When paired with the FCC's previous decision exempting small wireless facilities from federal historic and environmental review, this places an unreasonable burden on local governments to prevent historic preservation, environmental, or safety harms to the community. The addition of up to three cubic feet of antenna and 28 cubic feet of additional equipment to a structure not originally designed to carry that equipment is substantial and may necessitate more review than the FCC has allowed in its proposal. Currently, projects in the City of Chula Vista

undergo a careful review process by City staff to determine the effects on public safety, aesthetics and environmental impacts. We are apprehensive that the FCC proposal fails to acknowledge the need for limited case by case review of each small cell project based on the unique and custom nature of each project. We oppose limiting Chula Vista's authority to make informed and common sense decisions to protect the quality of life for our communities. It is critical that the City retain the authority to prevent small cell from locations that could impact public safety, personal privacy, property values and the environmental quality of our neighborhoods.

- **The FCC's proposed definition of "effective prohibition" is overly broad.** The draft report and order proposes a definition of "effective prohibition" that invites challenges to long-standing local rights of way requirements unless they meet a subjective and unclear set of guidelines. While the Commission may have intended to preserve local review, this framing and definition of effective prohibition opens local governments to the likelihood of more, not less, conflict and litigation over requirements for aesthetics, spacing, and undergrounding. The City of Chula Vista is highly concerned that the FCC proposal lacks clear guidance which could have major negative impacts on our Chula Vista communities. This lack of clarity could result in unnecessary legal challenges placing undue costs on cities and local governments across the country.
- **The FCC's proposed recurring fee structure is an unreasonable overreach that will harm local policy innovation.** We disagree with the FCC's interpretation of "fair and reasonable compensation" as meaning approximately \$270 per small cell site. Local governments share the federal government's goal of ensuring affordable broadband access for every American, regardless of their income level or address. That is why many cities have worked to negotiate fair deals with wireless providers, which may exceed that number or provide additional benefits to the community. Additionally, the Commission has moved away from rate regulation in recent years. Why does it see fit to so narrowly dictate the rates charged by municipalities? The City of Chula Vista has a critical obligation to always act in the public's best interest. Ensuring the appropriate market value for the rent of city property is consistent with that obligation. This FCC proposal gives unfair advantage to wireless companies and also takes away the public's right that requires rental rates for city property to be on par with the market value.
- **The FCC's proposal will significantly impact Chula Vista's Smart City initiatives and lead to economic losses for the City and its residents.** The City of Chula Vista has embarked on various smart city initiatives that look at future deployment of various sensor technologies across the City to increase connectivity, public safety and reduce traffic congestion. We are concerned that this FCC proposal significantly limits the City's ability to control and plan for where technology can be placed. In essence, Chula Vista will lose the ability for any long-range planning of our streetlights or other suitable host infrastructure located within the public right of way or other public places as part of our smart city efforts. We are very concerned that the City will not be able ensure that our streetlights are available for the deployment of critical public safety and emergency services smart technologies in the future. The FCC proposal will also significantly impact Chula Vista's efforts to address the special needs of our disadvantaged communities in addressing the Digital Divide as outlined in our smart city plans.

Similarly, we are also concerned that the FCC proposal will impact local governments and their ability to be leaders in new and emerging transportation technologies such as Autonomous Vehicles. Recently, Chula Vista, along with Caltrans and SANDAG, were selected by the U.S Department of Transportation as one of ten proving grounds for Autonomous Vehicle (AV) technologies. Chula Vista is the only location in California where this testing can occur on local public streets. Much of this testing will be of vehicle-to-vehicle and vehicle-to-public infrastructure communications. It is imperative to the success of these efforts that top priority of access to City and State owned vertical infrastructure in the public rights-of-way be reserved for serving the public's mobility needs.

- **The FCC's proposal will have significant negative economic impact for the City and its residents.** The City of Chula Vista is opposed to limiting the City's ability to pursue Public Private Partnership (P3) opportunities that could help fund critical projects, including our smart city initiatives. We are concerned about the impacts of the draft FCC proposal on future P3 opportunities. The proposal will limit Chula Vista's ability to plan and manage the use of City property which is a critical component for the formation of effective P3 opportunities. All cities have been utilizing P3's for development and redevelopment of public infrastructure in their communities. This proposal will take away an important tool necessary for building out a telecommunication backbone key to providing enhanced levels of service to our community.

As mentioned, the City of Chula Vista is committed to improving wireless communication services in our region and continues to work with wireless providers, private business and our communities to build the best broadband infrastructure possible for our residents. We oppose this effort to restrict local authority and stymie local innovation, while limiting the obligations providers have to our community. We urge you to oppose this declaratory ruling and report and order.

Sincerely,



MARY CASILLAS SALAS  
Mayor  
City of Chula Vista